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10/025,443

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Shawn Fanning

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EXAMINER

COBY, FRANTZ

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,443

Applicant(s)

FANNING ET AL.

Examiner

Frantz Coby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 and 21-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 and 21-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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This is in response to Applicant's amendment filed on October 05, 2005 in which claims 1-18 and 20 were canceled, claims 19, 21, 28-31, 36, 38 and 42 were amended.

Status of Claims

Claims 19 and 21-42 are pending.

Response to Arguments

Applicant's arguments filed on the aforementioned date have been fully considered but they are not persuasive. Therefore, the rejection of claims 19 and 21-42 mailed on November 01, 2005 under section 103(a) remains.

The rejection follows:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 19 and 21-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirsch et al. U.S. Patent no. 6,070,158 in view of Asakura U.S. Patent no. 6,169,988.

As per claim 19, Kirsch et al. disclose "the claimed limitations of "a search engine comprising a data k object description tables by providing an Internet based search site in relation to a querying client and document server (Col. 4, lines 57-59; Col. 5. lines 19-23). In particular, Kirsch et al. disclose the claimed limitations of a plurality of servers including a first server defined according to a first server identifier, the first server comprising a first data object defined according to a first data object description" (See Kirsch et al. Figure 1, component 18 and corresponding text). Notice that Figure 1 shows an Internet environment that can connect more than one server and the servers comprising documents. Also, Kirsch et al. disclose the claimed limitations of a communication link coupling the search engine to the first server" (See Kirsch et al. Figure 1, component 14; Col. 5. lines 13-18).

It is noted, however, Kirsch et al. did not specifically detail the claimed features of "wherein the first server is configured to transmit the first data object description to the search engine during a log-in process of the first server with the search engine, and wherein the search engine is further configured to store the first data object description

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in the data object description table and configured to correlate the first data object description to the first server identifier within the data object description table during the log-in process.” as recited in the instant claim 19. On the other hand, Asakura discloses a data sharing system (See Asakura Title, Abstract) that achieved the aforementioned limitations by providing a means for holding access information indicating relationship between a data name of the transferred data and a calculating machine name of a transfer destination when transferring data (See Asakura Title: Col. 2, lines 26-29) Figures 11-12, 14-23 and corresponding text).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the real-time document collection search engine system of Kirsch by incorporating the data sharing systems methodology of Asakura into the document server provided thereof (See Kirsch Figure 1. component 18). The motivation being to allow the real-time search engine of Kirsch to provide a data sharing system capable of always referring to the latest data (See Asakura Col. 2, lines 3-8).

As per claim 21, most of the limitations of this claim have been noted in the rejection of claim 19. Applicant's attention is directed to the rejection of claim 19 above. In addition, Asakura discloses the claimed feature of Ma second data object description stored within the data object description stored within the data object description table in correlation with a second identifier, wherein the second server identifier describes a second server and the second data object description describes a second data object; a first data object request store within the search engine, wherein the first data object

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request was received from the first server, wherein the first data object request is for the second data object (See Asakura Figures 11-12; Col. 20, lines 22-M: Col. 18, lines 41-49).

As per claim 22, most of the limitations of this claim have been noted in the rejection of claim 21. Applicant's attention is directed to the rejection of claim 21 above. In addition, Asakura discloses the claimed feature of wherein the search engine is configured to transmit the second server identifier to the first server in response to the first data object request* (See Asakura Col. 10, lines 47-55: Col. 19, lines 43-47: Col. 20, lines 22-44).

As per claim 23, most of the limitations of this claim have been noted in the rejection of claim 22. Applicant's attention is directed to the rejection of claim 22 above. In addition, Asakura discloses the claimed feature of "wherein the second server is configured to transmit the second data object to the first server upon a valid request by the first server (See Figures 1, 10 and corresponding text). The request is assumed to be valid since the data sharing system of Asakura is being applied in the World Wide Web and a logging mechanism is primarily incorporated in the network of figures 1, and 10.

As per claims 24-25, most of the limitations of these claims have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23

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above. In addition, Asakura discloses the claimed feature of wherein the first server is configured to notify the search engine that a download of the second data object is complete; wherein the second server is configured to notify the search engine that the download of the second data object is complete (See Asakura Col. 12, line 1-Col. 13, line 13).

As per claims 26-27, most of the limitations of these claims have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23 above. In addition, Asakura discloses the claimed feature of "wherein the search engine is configured to correlate the second data object description to the first server identifier within the data object description table when the download of the second data object is complete and wherein the search engine is configured to correlate, within the data object description table the second data object description the first sever identifier when the download of the second data object is complete through a confirmation result notice 221 of figure 1 (Also, See Asakura Figures 1 1-12: Col. 20, lines 2244; col. 12, lines 8-15).

As per claims 28-29, most of the limitations of these claims have been note in the rejection of claim 20. Applicant's attention is directed to the rejection of claim 20 above. In addition, Asakura discloses the claimed feature of wherein the first server identifier is selected from a group consisting of a first Internet protocol address, a first quantity simultaneous connections that can be sustained by the first server, a reliability rating of the first server and a server name and wherein the first data object description is

selected from a group consisting of a title of the first data object, a size of the first data object, a type of the first data object, a text associated with the first data object and a creator of the first data object" (See Asakura figures 2-3, 11-12, and 14-23).

As per claims 30-33, most of the limitations of these claims have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23 above. In addition, Asakura discloses the claimed feature of wherein the first server is further configured to detect when the first data object is removed from a predetermined file location and to notify the search engine of the removal; wherein the search engine is configured to periodically poll the first server to determine if any data objects have been removed from a predetermined file location within the first server, wherein the search engine is configured to purge the relationship between the first data object description and the first server within the data object description table when the first server notifies the search engine of a removal of the first data object; wherein the search engine is configured to purge the relationship between the first data object description and the first server within the data object description table when the search engine determines that the first data object has been removed from the predetermined location within the first server" (See Asakura Col. 15, line 3col. 16, line 6).

As per claims 34-47, most of the limitations of these claims have been noted in the rejection of claim 20. Applicant's attention is directed to the rejection of claim 20 above. In addition, Asakura discloses the claimed feature of wherein the search engine

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is configured to send a periodic ping message between the search engine and the first server, and wherein the first server is configured to respond to the ping message"; 'Wherein the search engine is configured to purge the relationship between the first search identifier and the first data object description within the data object description table when the first server fails to respond to the ping message within a predetermined time; "wherein the first server is configured to send a periodic ping message to the search engine following the log-in process"; and wherein the search engine is configured to purge the relationship between the first server identifier and the first data object description within the data object description table when the first server fails to send a ping message Within a predetermined time? (See Asakura Col. 14, lines 25-59).

As per claim 38, most of the limitations of this claim have been noted in the rejection of claim 20. Applicant's s attention is directed to the rejection of claim 20 above. In addition, Kirsch et al. disclose the claimed feature of wherein the first server identifier comprises an IP address for accessing the first server over the Internet (See Asakura Col. 19, lines 20-25). Also, Asakura's servers are embodied in the World Wide Web, which primarily incorporates IP addresses for the purpose of accessing the servers over the Internet.

As per claim 39, most of the limitations of this claim have been noted in the rejection of claim 22. Applicant's attention is directed to the rejection of claim 22 above. In addition, Asakura discloses the claimed feature of wherein the second server

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identifier defines a server from among a first set of potential server identifier related to the second data object in the data object description table, wherein the search engine is configured to transmit, in response to the first data object request the first set of potential server identifiers representing a first set of potential servers capable of transmitting the second data object to the first server, and wherein the first server is configured to select an optimal data source from which to receive the first data object from among a first set of potential sewers, wherein a selection of the optimal data source is based upon a comparison of operational parameters respectively associated with each sewer among the first set of potential serversœ (See Asakura Figures 11-12; Col. 20, lines 22-49: C01. 9, line 60-Co1. 10, line 3).

As per claim 40, most of the limitations of this claim have been noted in the rejection of claim 39. Applicant's attention is directed to the rejection of claim 39 above. In addition, Asakura discloses the claimed feature of wherein the operational parameter are selected from a group consisting of roundtrip response time between the first server and a potential server, internet connection line speed (bandwidth) of a potential server, a reliability of a potential provider server, a number of requests already queued to a potential server, and a size of a file requested for downloading (See Asakura Col. 18, line 41-Col. 19,line 47).

As per claim 41, most of the limitations of this claim have been noted in the rejection of claim 23. Applicant's attention is directed to the rejection of claim 23 above.

In addition, Asakura discloses the claimed feature of wherein the *second server is configured to transmit data files to multiple servers in a time-multiplexed format since a world wide web server is provided (See Asakura Col. 18, line 41-Col. 19, line 47).

As per claim 42, most of the limitations of this claim have been noted in the rejection of claim 20. Applicant's attention is directed to the rejection of claim 20 above. In addition, Kirsch et al. disclose the claimed feature of *wherein the first data object is selected from a group comprising audio data, text data, video data, image data and so>are executable data" (See Asakura Col. 18, lines 65-67).

Remarks

The Applicant argued, "Kirsch et al. does not have a log-in process". However the Examiner disagrees with the preceding argument because Kirsch et al. disclose a log-in process because Kirsch et al. an Internet based search site in relation to a querying client and document server (Col. 4, lines 57-59; Col. 5, lines 19-23).

In response to applicant's argument that the combined teachings fail to suggest a search engine that is configured to store the first data object description in the data object-description table and that is configured to correlate the first data object description to the first server identifier within the data object description table during the log-in process, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the real-time document collection search engine system of Kirsch by incorporating the data sharing systems methodology of Asakura into the document server provided thereof (See Kirsch Figure 1. component 18). The motivation being to allow the real-time search engine of Kirsch to provide a data sharing system capable of always referring to the latest data (See Asakura Col. 2, lines 3-8).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is 571 272 4017. The examiner can normally be reached on Monday-Saturday 3:00PM-10:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571 272 4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


FRANTZ COBY
PRIMARY EXAMINER

January 20, 2006